

House Bill 678 – MACo Requested Amendments

OPTION #1

EXHIBIT 3
DATE 3/27/09
HB 678

Strike Section 4 in its entirety, leaving present law in place.

Current Law:

82-4-405. Inapplicability to government. The provisions of this part relating to fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns.

History: En. 50-1516.1 by Sec. 1, Ch. 81, L. 1975; amd. Sec. 30, Ch. 39, L. 1977; R.C.M. 1947, 50-1516.1; amd. Sec. 10, Ch. 507, L. 1999 (Inserted federal government or its agencies).

Attorney General Opinions:

Retroactive: After July 1, 1975, the State of Montana and its subdivisions need not comply with any fee or bonding requirements of The Opencut Mining Act. 36 A.G. Op. 31 (1975).

OPTION #2

Amend Section 3 to read:

"15-38-113. Exemption from resource indemnity and ground water assessment tax. The following persons are exempt from the resource indemnity and ground water assessment tax:

(1) A a person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1, ~~is exempt from the resource indemnity and ground water assessment tax.~~

(2) A a person who has paid the tax on oil and natural gas production under the provisions of Title 15, chapter 36, ~~or, part 3, is exempt from the resource indemnity and ground water assessment tax.~~

(3) a person who holds a permit pursuant to Title 84 82, chapter 4, part 4, and is subject to the fee provided for in 82-4-437(2); OR

(4) A COUNTY, CITY, OR TOWN THAT HOLDS A PERMIT PURSUANT TO TITLE 82, CHAPTER 4, PART 4."

Amend Section 12 to read:

NEW SECTION. Section 12. Applicability -- retroactive applicability. (1) [Sections 1 through 6 and 9] apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2007.

(2) Except as provided in subsection (3), [sections 7 and 8] apply to permit applications and amendment applications pursuant to 82-4-432 submitted after [the effective date of this act].

(3) [Section 7(4)(c)] applies retroactively, within the meaning of 1-2-109, to permit applications and amendment applications submitted prior to [the effective date of this act].

(4) THE EXEMPTION PROVIDED FOR IN 15-38-113(4) APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO TAX YEARS BEGINNING AFTER DECEMBER 31, 2000, FOR COUNTIES, CITIES, AND TOWNS.



Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

March 13, 2009

LEWIS AND CLARK COUNTY ROAD DEPARTMENT
3402 COONEY DRIVE
HELENA MT 59624

Subject: Filing and paying Resource Indemnity Trust and Ground Water
Assessment Tax by Cities, Counties and State Agencies

Under Montana law, all mineral extractors or producers are subject to the Indemnity Trust and Ground Water Assessment Tax (RIGWAT). It has come to our attention that you are conducting opencut mining operations. We therefore believe that you are required to file and pay the RIGWAT.

Our records indicate that you are now past due for the years ending December 31, 2000 through December 31, 2008. Please send us the appropriate annual returns and amounts owed by April 30, 2009.

We based our determination on information provided to us by the Montana Department of Environmental Quality who informed us that you have either filed a report through the opencut mining program or obtained a permit to conduct opencut mining. In addition, a review by our Office of Legal Services has determined that state and local governments are required to file and pay the RIGWAT.

The RIGWAT is an annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing any nonrenewable merchantable products from the surface of subsurface in Montana. The minimum tax is \$25. An additional amount is computed on the gross value of product at the rate of $\frac{1}{2}$ of 1% (.005) of the amount of gross value of product at the time of extraction from the ground, if in excess of \$5,000.

RECEIVED

MAR 16 2009

Lewis & Clark County
Public Works Dept.

Please be aware, if your return is not filed and the tax paid by the due date, we are required under Montana law to estimate the tax. In addition we are also required under Montana law to assess penalties and interest on any late filed or estimated taxes at the following rates.

- Late filing penalty – The penalty will be a minimum of \$50 or the amount of tax due, whichever is less
- Late payment penalty – For tax periods beginning on or before December 31, 2006, the late payment penalty accrues at 1.5% a month not to exceed 18% of the tax due. For tax periods beginning after December 31, 2006 the late payment penalty accrues at 1.2% a month not to exceed 12% of the tax due.
- Interest – Interest is applied at 1% per month until the entire tax debt is paid.

If the tax and interest are paid within 30 days the penalty may be waived if a written request is received.

Please contact Lee Will at (406) 444-5877 if you have any question or need help preparing a return.

Sincerely,

Lee Baerlocher
Bureau Chief
Business & Income Taxes Division
PO BOX 5805
Helena, MT 59604-5805
(406) 444-5877



Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

March 13, 2009

LEWIS AND CLARK COUNTY ROAD DEPARTMENT
3402 COONEY DRIVE
HELENA MT 59624

Subject: Filing and paying Resource Indemnity Trust and Ground Water
Assessment Tax by Cities, Counties and State Agencies

Under Montana law, all mineral extractors or producers are subject to the Indemnity Trust and Ground Water Assessment Tax (RIGWAT). It has come to our attention that you are conducting opencut mining operations. We therefore believe that you are required to file and pay the RIGWAT.

Our records indicate that you are now past due for the years ending December 31, 2000 through December 31, 2008. Please send us the appropriate annual returns and amounts owed by April 30, 2009.

We based our determination on information provided to us by the Montana Department of Environmental Quality who informed us that you have either filed a report through the opencut mining program or obtained a permit to conduct opencut mining. In addition, a review by our Office of Legal Services has determined that state and local governments are required to file and pay the RIGWAT.

The RIGWAT is an annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing any nonrenewable merchantable products from the surface of subsurface in Montana. The minimum tax is \$25. An additional amount is computed on the gross value of product at the rate of $\frac{1}{2}$ of 1% (.005) of the amount of gross value of product at the time of extraction from the ground, if in excess of \$5,000.

RECEIVED

MAR 16 2009

Lewis & Clark County
Public Works Dept.

Please be aware, if your return is not filed and the tax paid by the due date, we are required under Montana law to estimate the tax. In addition we are also required under Montana law to assess penalties and interest on any late filed or estimated taxes at the following rates.

- Late filing penalty – The penalty will be a minimum of \$50 or the amount of tax due, whichever is less
- Late payment penalty – For tax periods beginning on or before December 31, 2006, the late payment penalty accrues at 1.5% a month not to exceed 18% of the tax due. For tax periods beginning after December 31, 2006 the late payment penalty accrues at 1.2% a month not to exceed 12% of the tax due.
- Interest – Interest is applied at 1% per month until the entire tax debt is paid.

If the tax and interest are paid within 30 days the penalty may be waived if a written request is received.

Please contact Lee Will at (406) 444-5877 if you have any question or need help preparing a return.

Sincerely,

Lee Baerlocher
Bureau Chief
Business & Income Taxes Division
PO BOX 5805
Helena, MT 59604-5805
(406) 444-5877